Wells Fargo & Company
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June 4, 2009

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551
regs.comments@federalreserve.gov

Re: Regulation Z; Proposal on Truth in Lending
Federal Reserve System Regulation Z; Docket No. R-1286

Dear Ms. Johnson:

This letter is submitted on behalf of Wells Fargo & Company and its affiliates ("Wells Fargo") in response to the proposed clarifications regarding Truth in Lending, published in the Federal Register on May 5, 2009 at 12 CFR Part 226 (the "Proposal"). Wells Fargo appreciates the opportunity to comment and respectfully requests that the members of the Board of Governors of the Federal Reserve System ("Board") consider adopting the suggestions set forth herein.

The Wells Fargo vision to satisfy all of our customers' financial needs, help them succeed financially, and be known as one of America's great companies is a driving force in the way we do business. The types of issues outlined by the Board in the Commentary accompanying the Proposal and the final revisions to Regulation Z published in the Federal Register December 18, 2008: engaging in responsible lending practices, encouraging consumers to make responsible and successful financial choices and conducting business with honesty and integrity, are already at the heart of our vision. It is our practice to build our business processes and strategies in compliance with all applicable laws and regulations.

This letter provides Wells Fargo's comments to the specific requests for comments raised in the Proposal, as well as further requests for additional clarification based upon the Proposal.

Deferred Interest

The Proposal defines deferred (or waived) interest as "finance charges accrued on balances or transactions that a consumer is not obligated to pay or that will be waived or refunded to a consumer if those balances or transactions are paid in full by a specified date." Wells Fargo strongly supports this definition and the approach the Board has taken with respect to deferred interest offers generally.

Wells Fargo notes that after the Proposal was issued, Congress passed and President Obama signed the Credit CARD Act of 2009. In issuing revisions to Regulation Z and Regulation AA, Wells Fargo urges the Board to take into consideration the colloquy set forth in the Senate Congressional Record for May 19, 2009 under the heading "Deferred Interest" in which Senators Dodd and Shelby confirm that Congress did not intend to prohibit deferred interest plans by the broad language used in Section 102 of the Credit CARD Act of 2009. This colloquy and the fact that Congress included an exception in Section 104 of the Credit CARD Act relating to deferred interest plans evidences Congress' intent to allow deferred interest plans. Wells Fargo believes these types of offers provide an important benefit to consumers and the merchants that offer them, and we urge the Board to clarify that the broad language in Section 102 of the Credit CARD Act does not prohibit deferred interest plans.

226.16(h)(2): Definitions

With the above in mind, Wells Fargo requests further clarification with respect to Comment 16(h)-1, which states "[d]eferred or waived interest offers do not include offers that allow a consumer to skip payments during a specified period of time, and under which the consumer is not obligated under any circumstances for any interest or other finance charges that could be attributable to that period." While Wells Fargo believes this language was meant to address the type of skip payment feature offered for a time period during which interest does not accrue and is not assessed, we are concerned the commentary may be ambiguous. It is possible to read the sentence as describing two types of offers that do not constitute deferred interest plans: (1) those plans that have a skip payment feature, and (2) any plans under which a consumer is not obligated for interest or finance charges under any circumstances during a certain period. Many private label credit card programs offer two types of deferred interest plans (those that require regular payments during the deferred interest period and those that do not require regular payments during the deferred interest period). In both cases, finance charges accrue but the consumer is not obligated to pay those finance charges if they pay in full by a specified date. A deferred interest plan that did not require regular payments could be interpreted as excluded from the definition of "deferred or waived interest offers" by the Commentary as written, because it could be viewed as an "offer to allow a consumer to skip payments during a specified period of time" (the deferred interest period).

Wells Fargo respectfully requests that the Board clarify that deferred interest plans that do not require regular payments are not excluded from the definition of "deferred or waived interest offers" pursuant to Comment 16(h)-1.

226.16(h)(5):Envelope Excluded

Wells Fargo strongly supports efforts to ensure that the consumer fully understands deferred interest offers. The Proposal indicates that the disclosures under Section 226.16(h)(4) do not need to be on envelopes "or banner advertisements or pop-up advertisements linked to an application or solicitation provided electronically." Wells Fargo supports this exception and agrees with the Board that requiring disclosures in such cases is not beneficial. In addition, Wells Fargo's comment letter in response to the proposed revisions to Regulation Z published in the Federal Register May 19, 2008, expressed concerns that the proposed deferred interest disclosures might overwhelm in-store advertisements (including placards or banners). Currently, a sign may advertise "No Interest if paid within 12 Months" above an item of furniture. Adding the deferred interest disclosures to that sign in accordance with all of the formatting requirements would unnecessarily crowd out a retailer's message and could potentially make the sign confusing for a consumer.

The reference to banner advertisements in Proposal 226.16(h)(5) may have been intended to address this issue. However, it is unclear whether the reference to "banner" was intended to address only electronic banners or whether it was also intended to refer to paper or cloth banners that hang in stores. The Section-by-Section analysis states: "Interested consumers generally look at the contents on an envelope or click on the link in a banner advertisement or pop-up advertisement in order to learn more…" Although this statement appears to indicate the reference to "banner" was meant to cover only electronic banners, in-store banners are analogous to electronic banners because it is easy for consumers to access details of the offer quickly. In the case of in-store banners, terms and conditions of the offer are available in the store and are easily accessed by asking a sales associate. Wells Fargo therefore urges the Board to clarify that the reference to banner is intended to also include in-store signs. Alternatively, Wells Fargo would support a shortened required disclosure for in-store signs, banners and placards that would be less likely to overwhelm the message or confuse the consumer such as "You may request details from the sales associate", "Please ask a sales associate for details" or language to that effect. Wells Fargo urges the Board to consider specifying an exception for such in-store advertising.

Non-Dwelling Real Estate Secured Lines of Credit

226.6: Account Opening Disclosures

The Board is soliciting comment on the prevalence of real estate secured plans that are secured by real estate other than the consumer's dwelling and the burden of compliance with the new disclosures. The Board also solicits comment on whether it is preferred to

treat these real estate secured lines of credit like those that are secured by the consumer's dwelling. Wells Fargo believes that such real estate secured plans are prevalent and urges the Board to treat all real estate secured lines of credit similarly under Regulation Z (other than the right of rescission in Section 226.15, which is designed particularly for consumer protection with respect to the principal dwelling). Treating real estate secured products similarly would be more efficient for lenders, would promote consistency and clarity, and would provide beneficial protections for consumers.

Account Opening Disclosures

226.6(b)(4)(ii)(G): Variable-Rate Accounts

In the Proposals, the Board clarifies that it is revising Section 226.6(b)(4)(ii)(G) to clarify that a variable rate is accurate if it was in effect within the last 30 days before the disclosures are provided. Wells Fargo supports this clarification and believes it will help creditors reduce costs while still providing consumers a benefit.

However, Wells Fargo also believes that the Board should consider an exception from this requirement for certain private label credit card disclosures that are generally available to the public at retail locations. Private label credit card applications and agreements are often pre-printed as one document and are available at the retail location. Unlike other credit card accounts where there may be a customary delay between applying for the account and making the first transaction, applications in the private label context are often processed at the point of sale at the time the consumer chooses to make his or her first transaction.

Wells Fargo notes the Board established an exception in Section 226.5a(e)(1) for applications available to the general public (including "take one" applications available at retail locations) that allows the creditor to include the date of the disclosures and a telephone number the consumer can call to receive updated disclosures, rather than frequently reprinting and restocking such disclosures. Because of the timing of first transactions for many private label cards (immediately after account opening), however, it would be burdensome for issuers to print the application disclosures under Section 226.5a separately from the Section 226.6 account opening disclosures and to frequently resupply retailers with new disclosures when the index rate moves. Many creditors may not find it practical to take advantage of the exception in Section 226.5a(e)(1), and it may not have the intended consequences of reducing the need to reprint disclosures frequently.

Wells Fargo respectfully requests that due to the timing of private label transactions and the printing and processing burdens associated with separating the application and account opening disclosures, the "take one" exception for variable APR accuracy standards in Section 226.5a(e)(1) should be extended to Section 226.6 as well. Such an exception would allow private label issuers to use one document (incorporating both the application and account opening disclosures) without requiring them to reprint and restock more frequently while still ensuring that consumers could access updated

information quickly and easily. Alternatively, Wells Fargo requests that the Board clarify that the variable rate could be updated by an insert or on a separate document at the point of sale.

226.6(b)(2)(i)(E) Point of Sale Where APRs Vary

Wells Fargo supports the Board's proposal to allow flexibility with respect to the disclosure of APRs at the point of sale when rates vary based on the consumer's creditworthiness.

Additionally, Wells Fargo urges the Board to clarify that retailers that offer reduced rate promotional plans to all consumers (whether the account is opened at the time the purchase subject to that reduced rate is made or was opened earlier) may disclose the terms of such offers via an insert or on the invoice at the time of the purchase. Wells Fargo notes that private label issuers usually offer a wide variety of promotional terms promotions through retailers, and retailers may choose particular promotions for particular sales or sale items. The offer—whether it be deferred interest, no interest, or a particular reduced interest rate—may therefore differ depending on when the consumer is shopping or what the consumer purchases. For this reason, it is important that creditors have flexibility in disclosing the promotional terms. Often the possible promotional terms that may apply are described generally in the account agreement, but the specific promotional terms applicable to a purchase are described on an invoice or receipt provided at the time or purchase. Requiring a reduced rate to be disclosed in the account opening table itself could impose significant operational, printing, and distribution costs on the creditor without added benefit to the consumer. Such increased costs could have the unintended consequence of reducing the number of promotional offers available to consumers. Wells Fargo respectfully requests the Board clarify that, despite the language in 226.6(b)(2)(i)(F), Regulation Z still provides this flexibility to issuers.

Interest and Fees for Acquired or Modified Accounts

Comments 7(b)(6)-6 and -7: Acquired Accounts; Account Upgrades

Proposed Comments 7(b)(6)-6 and -7 explain that billing statement disclosures of aggregate interest and fees for the statement period and the year to date must include any interest and fees incurred by a consumer prior to a creditor acquiring or changing that consumer's account. Alternatively, those Comments allow the creditor to separately disclose the totals for each time period on the billing statement (totals applicable to the period before acquisition or change, and totals applicable to the period after acquisition or change). The Board requests comment regarding operational issues associated with carrying over cost totals in the circumstances described in the proposed commentary.

Wells Fargo notes that in large part the acquirer would be relying upon the seller's or transferor's data and system capabilities to make such disclosures. It appears that Comment 7(b)(6)-3 provides creditors the choice of different calendar year periods for their year-to-date total (for example, some may choose January through December while

others choose December through November). If a creditor acquires a portfolio, it may be necessary due to system or processing constraints to switch the dates for which the year-to-date totals are given for the acquired accounts. Such a discrepancy could cause additional operational difficulties in ensuring the consumer receives accurate and consistent disclosures. Therefore, Wells Fargo urges the Board to establish flexibility that would allow creditors to make such changes with respect to the calendar year period if they deem it necessary.

Changes in Terms

226.9 (c)(2)(iv): Notice not Required

Proposal 226.9(c)(2)(iv) provides that a 45-day advance notice is not required when a change in terms is applicable only to a check that accesses a credit card account and the terms are disclosed on or with the checks in accordance with Section 226.9(b)(3). Wells Fargo supports this exception and agrees with the Board that requiring additional tabular disclosures in a change in terms notice when the consumer will also receive tabular disclosures with the check(s) would create consumer confusion and provide little consumer benefit.

Additionally, Wells Fargo urges the Board to consider expanding the scope of this exception. Many creditors provide in cardholder agreements that there is a balance transfer feature on the account, and then the creditors may periodically send out balance transfer checks. The consumer may use those checks to pay off an outstanding balance they have on a different account (thereby transferring it to the account). However, many such offers specify that the consumer may redeem the check in paper form or may call in or go online to accomplish a balance transfer without using the paper check. The exception as drafted would allow a creditor to send disclosures with the check disclosing finance charge terms different from those originally established in the agreement applicable to the check and to then resume the rate established in the agreement without sending 45-day change in terms notices. However, it seems that a creditor may not be able to rely on the exception if the consumer chose to redeem the offer by using a method other than the paper checks. If the consumer uses the phone or online options to redeem the offer and accomplish the balance transfer, they have will still receive the same tabular disclosures as the consumer who uses the paper check. Wells Fargo notes that providing the consumer with telephone and online options for redeeming an offer is a convenience for the consumer. Therefore, Wells Fargo urges the Board to consider expanding or clarifying this exception to consumers who use the phone or online options to accomplish a balance transfer after receiving the tabular disclosures in the mail with paper checks.

That being said, Wells Fargo acknowledges that the Credit CARD Act permits rate increases at the end of a specified promotional period of time if certain conditions are met and disclosures are provided. In issuing regulations under Section 171 of the Truth in Lending Act in accordance the Credit CARD Act, Wells Fargo also urges the Board to establish that disclosures for promotions or balance transfer offers may be provided in paper form as well as online, via telephone or via email and that such disclosures would

meet the disclosure requirements of Section 171(b)(1)(A). For balance transfers offered via email or processed by the consumer online, creditors may include disclosures in the email or on the website for the consumer to click through before processing the transaction. Such email disclosures or online disclosures that the consumer receives before processing a transaction would be analogous to the disclosures accompanying a check in the mail. For offers made via telephone, creditors may provide the disclosures orally before processing the transaction.

Additionally, Wells Fargo urges the Board to clarify the exception for rate increases that result from the completion of a period in which rates were reduced pursuant to the Servicemembers Civil Relief Act, 50 U.S.C. app. 527 ("SCRA"). Wells Fargo notes an exception was proposed to be added to __.24(b)(6) of Regulation AA that would have allowed a creditor to increase the rate on an outstanding balance after such a reduction pursuant to 50 U.S.C. app. 527. Wells Fargo notes, however, that a similar exception was not explicitly set forth in the Credit CARD Act or the Proposal. Wells Fargo respectfully requests that regulations promulgated pursuant to the Credit CARD Act explicitly acknowledge that SCRA accounts fall within the temporary hardship category and explicitly note that rate increases with respect to SCRA accounts are therefore exempt from the 45-day notice requirement under Section 226.9(c)(2)(iv).

226.9(g)(4)(i): Workout and Temporary Hardship Arrangements

Wells Fargo strongly supports the clarification that a creditor is not required to provide a notice pursuant to Section 226.9(g)(1) if the increase is due to the consumer's completion of a temporary hardship arrangement or as a result of failure to comply with a temporary hardship arrangement.

Billing Error Resolution

Comments 12(b)-3 and 13(f)-3: Reasonable Investigation

The Proposal would allow a card issuer to require the cardholder to provide a signed statement supporting an asserted claim, as long as the act of providing the signed statement would not subject the cardholder to potential criminal penalty. Wells Fargo supports this clarification. We also urge the Board to consider adding language stating that any assertion by the cardholder that completing such a statement would subject the cardholder to criminal penalty must be affirmatively asserted rather than putting the creditor in a position of having to determine whether a cardholder's failure to comply with a request is based upon the right not to subject himself or herself to potential criminal penalty.

Conclusion

Wells Fargo strives to provide our consumers with flexible, wide-ranging and competitive credit products, superior service and education while fully complying with all applicable laws and regulations. We strongly support the improved disclosures to

promote consumer understanding. We respectfully urge the Board to consider all of the comments and suggestions herein.

If you have any questions or would like to discuss any of the issues herein, please do not hesitate to contact me at (515)557-6289 or martineolson-daniel@wellsfargo.com.

Sincerely,

/s/ MARTINE T. OLSON-DANIEL

Martine T. Olson-Daniel
Senior Counsel